

REMARKS/ARGUMENTS

Claims 1-21 are pending.

Claim 1-9 stand rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-9 of prior U.S. Patent No. 6,693,050.

Claims 10-21 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,693,050.

As currently presented, all the pending claims of the subject application comply with all requirements of 35 U.S.C. Accordingly, Applicant requests examination and allowance of all pending claims.

The Rejection Under 35 U.S.C. 101

Claim 1-9 stand rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-9 of prior U.S. Patent No. 6,693,050. This rejection is respectfully traversed.

Claim 1 of the '050 patent recites:

1. A method of filling a plurality of trenches etched in a substrate, the method comprising:
depositing a layer of spin-on glass material over the substrate
and into the plurality of trenches;
exposing the layer of spin-on glass material to a solvent;
curing the layer of spin-on glass material; and
depositing a layer of silica glass over the cured spin-on glass
layer using a chemical vapor deposition technique. (emphasis added).

In contrast, claim 1 of the present application recites, among other elements: "A method of filling a gap formed between adjacent raised surfaces of a substrate, the method comprising: depositing a layer of spin-on glass material over the substrate and into the gap". Accordingly, Applicants respectfully submit that the claims are not identical and that the Statutory Double Patenting Rejection under 35 U.S.C. § 101 of claim 1 is improper. Claims 2-9 each depend from claim 1 and are thus believed to be distinguished under the §101 rejection from the respective claims 2-9 of the '050 patent for at least the same reasons as claim 1.

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Amdt. dated **October 19, 2004**
Reply to Office Action of July 26, 2004

PATENT

Double Patenting Rejection


Claims 10-21 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,693,050. Enclosed herewith is a Terminal Disclaimer To Obviate a Double Patenting Rejection Over a Prior Patent and Statement Under 37 C.F.R. 3.73(b).

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,


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